

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NORTHEAST ORGANIC FARMING
ASSOCIATION OF NEW YORK, NATURAL
RESOURCES DEFENSE COUNCIL, and
ENVIRONMENTAL WORKING GROUP,

Plaintiffs,

25 Civ. 1529 (MMG)

v.

U.S. DEPARTMENT OF AGRICULTURE,

Defendant.

DECLARATION OF BRIAN K. MABRY

I, Brian K. Mabry, make the following declaration pursuant to Section 1746 of Title 28 of the United States Code. I make this declaration based upon the knowledge I have acquired through the performance of my official duties. I am aware that this declaration will be filed with the United States District Court for the Southern District of New York, and that it is the legal equivalent of a statement under oath.

1. I served as Acting Director of the Office of Communications from January 17, 2025, until March 24, 2025, for the United States Department of Agriculture (USDA), stationed in the District of Columbia. Since September 2017, I have held the position of Deputy Director, Office of Communications, which is my current title at the USDA. Previously, I was Communications Coordinator in USDA's Office of Communications from March 2013 to September 2017, and Deputy Director, Congressional and Public Affairs, for USDA's Food Safety and Inspection Service from March 2009 to March 2013.

2. As the Acting Director, I was responsible for establishing communications policy and plans, reviewing and approving statements and other public releases of information, and overseeing all work done by the Office of Communications staff, including tasks performed by the Press Operations staff; the Events, Printing and Editorial Review Division; the Creative Broadcast & Media Center's Creative Services, Photography, and Radio work units; and the Digital Communications Division, which oversees social media and the USDA.gov website. In my permanent role, I also oversee daily activities in all the same areas except for press operations.

3. I also served as Acting Director for the Office of Communications during the 2021 presidential transition, and as the USDA Spokesman and supervisor of Press Operations from January to late April during the 2017 presidential transition.

4. I make the statements herein on the basis of personal knowledge, as well as on information acquired by me in the course of performing my official duties, including through my review of agency emails and discussions with colleagues at the USDA who are also familiar with the facts at issue in this litigation.

5. On January 17, 2025, at close of business, I assumed the role of Acting Director of the U.S. Department of Agriculture's Office of Communications.

6. On January 20, 2025, President Trump was sworn in at noon. Later that day, President Trump rescinded numerous executive orders and directives of the previous administration, including on matters related to climate change.¹ Among the executive orders revoked that day was Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis

¹ See <https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/> (last visited March 25, 2025).

at Home and Abroad), in which President Biden had directed, in part, that: “It is the policy of my Administration to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure. Successfully meeting these challenges will require the Federal Government to pursue such a coordinated approach from planning to implementation.” That afternoon, the USDA Chief Information Officer (and designated acting Deputy Secretary of Agriculture) Gary Washington emailed me and Peter Rhee, USDA Digital Communications Division Director (who oversees USDA.gov and USDA social media channels), asking us to update the agency’s public-facing websites and intranet to remove pictures of and references to the prior administration.

7. Similar requests to remove content associated with the previous administration from the public-facing website occurred in 2017 and 2021 and was something the staff anticipated during changes in administration, which was one reason Peter Rhee and I were both working on January 20, 2025 (a federal holiday).

8. On the next regular workday (January 21, 2025), Mr. Rhee reported back to now-acting Secretary Washington that certain actions would be started that day. For example, the biographies for the USDA’s previous Secretary and Deputy Secretary would be removed, a webpage listing the USDA’s “Key Initiatives” would be updated, and content containing references to “Biden” or “Harris” would be archived.

9. On January 22, 2025, I met with the heads of public affairs for USDA's agencies and staff offices. *See* www.usda.gov/agencies (listing USDA's 18 agencies); www.usda.gov/about-usda/general-information/staff-offices (listing the USDA's 17 staff offices). The USDA's 18 agencies and many of the larger staff offices have their own public affairs staff and operations, headed by these leaders. The USDA Office of Communications staff meets routinely with these leaders to provide guidance and direction of USDA's communications efforts and messaging. In this case, I wanted to provide everyone the same guidance at the same time on how to handle communications during the transition, including de-emphasizing the priorities of the previous administration on public-facing websites, and increasing the amount of review time required for proposed department-wide announcements to allow the new political team extra time.

10. That evening, now-acting USDA Secretary Gary Washington distributed a request from the United States Office of Personnel Management (OPM) asking for daily reports designed to gauge each agency's compliance with the new administration's directions derived from executive orders and guidance memos from the Office of Personnel Management

11. On January 27, 2025, OPM sent another communication, urging agencies to finalize changes to public-facing websites in accordance with the President's recently issued executive orders. Likewise, we received feedback on the importance of quickly implementing requested changes and accurately collecting and reporting data after Acting Secretary Washington met with representatives from the Department of Government Efficiency in which previous USDA data submissions were reviewed line-by-line.

12. In response, and as part of our efforts to replace web content related to priorities of the prior administration with those of the current administration, Mr. Rhee emailed

instructions to (1) identify and archive or unpublish any landing pages² focused on climate change, and (2) identify all web content related to climate change and document it in a spreadsheet which the Office of Communications could review.

13. On January 31, I sent a follow-up email to all Public Affairs Directors at the USDA's 18 agencies emphasizing and clarifying that they should: (1) not delete climate change content but instead to archive or unpublish that content, to ensure that the USDA adheres to its records-retention obligations, and (2) compile all links with climate content in a spreadsheet, as well as the program area's recommendation on whether each link should be archived or unpublished.

14. Upon receipt of the requested spreadsheets, which were all submitted by February 4 or thereabouts, I and other Office of Communications leaders reviewed the relevant content and determined which content to maintain on the active webpages, and which to archive or unpublish. In making those determinations, we sought to retire outdated content (for example, blog posts that were more than 10 years old) or content for programs and topics inextricably linked to the prior administration. We focused on retiring what we considered political/policy material while preserving research-related materials as well as press releases. (Press releases from before January 20, 2025, no longer appear under the "News" tab on USDA.gov, but can still be located using the website's search tools.)

15. By February 6, the Office of Communications had issued recommendations regarding how to handle each webpage listed on the spreadsheets that we received from the 13 USDA agencies, that reported having relevant web content. We invited the agencies to appeal

² A website is a collection of related webpages on various topics; a landing page is a webpage focused on a specific issue or goal.

our recommendations, but none did so or otherwise expressed concerns with our recommendations.

16. I understand that Plaintiffs filed this action, challenging the removal of certain climate change-related content from the webpages of the USDA and its agencies. I understand further that Plaintiffs allege, among other things, that various climate-related “tools” were removed and made unavailable to the public, including the following: Climate Hubs, Conservations Concerns Tool, COMET-Farm Tool, Comet-Planner Tool, and US Forest Service Climate Risk Viewer.

17. Contrary to Plaintiffs’ allegations, Climate Hubs and the Conservation Concerns Tool were never removed and remain publicly available.³ ⁴ Meanwhile, COMET-Farm Tool and COMET Planner Tool are not USDA-hosted tools but instead are operated and maintained on non-USDA websites; they remain online and publicly available.⁵ ⁶ Likewise, the US Forest Service Climate Risk Viewer, which was announced in an April 20, 2023 Press Release titled “Biden-Harris Administration Announces New Steps for Climate Resilience and Forest Conservation: At President Biden’s Direction, USDA and Interior Release Inventory of Mature and Old-Growth Forests, Set Reforestation Targets for Federal Lands,” was not hosted on the USDA.gov site.⁷ ⁸

³ See <https://www.climatehubs.usda.gov/>

⁴ See <https://www.farmers.gov/conservation/concerns-tool>

⁵ See <https://www.comet-farm.com/home>

⁶ See <http://www.comet-planner.com/>

⁷ See <https://usnature4climate.org/toolbox/usda-forest-service-climate-risk-viewer/>

⁸ See https://www.arcgis.com/sharing/rest/oauth2/authorize?client_id=arcgisstorymaps&response_type=token&expiration=20160&redirect_uri=https%3A%2Fstorymaps.arcgis.com%2Foauth-callback%3FreturnURL%3D%252Fcollections%252F87744e6b06c74e82916b9b11da218d28%253Fitem%253D2&hideCancel=true&showSignupOption=true&force_login=true

18. While Plaintiffs are correct that USDA removed certain information relating to funding opportunities that had previously been available to farmers, the funding information that was removed primarily relates to funding programs that are currently frozen, pending review by the new Administration. USDA did not intend to remove content relating to funding opportunities that currently remain available to farmers, if it was done, and information about the USDA Natural Resources Conservation Service's conservation programs remain available.⁹ ¹⁰ ¹¹

¹²

19. I understand further that Plaintiffs allege that a preliminary injunction is necessary because of the risk that additional climate-related content may be removed from USDA's webpages in response to Mr. Rhee's January 30 email. The USDA, however, has no such plans and views the process pursuant to which Mr. Rhee sent this email as complete. While the USDA is not aware of any new executive orders or OPM guidance regarding public-facing websites, the USDA will continue to comply with any directives that are issued and therefore cannot give blanket assurance that the webpages under the USDA.gov domain will remain static.

20. Indeed, USDA.gov is a complex and dynamic site that ties together 18 agencies, along with 17 individual Staff Offices. The agencies run their own subsites under the USDA.gov domain, while the Staff Offices, with a few exceptions (such as the Office of the Inspector General), rely on the Office of Communications to maintain their sites. Regular content updating and review to archive outdated material is a fundamental part of website management.

⁹ See <https://www.nrcs.usda.gov/programs-initiatives/eqip-environmental-quality-incentives>

¹⁰ See <https://www.nrcs.usda.gov/programs-initiatives/csp-conservation-stewardship-program>

¹¹ See <https://www.nrcs.usda.gov/programs-initiatives/acep-agricultural-conservation-easement-program>

¹² See <https://www.nrcs.usda.gov/programs-initiatives/rcpp-regional-conservation-partnership-program>

21. Finally, none of the website content that was removed pursuant to Mr. Rhee's January 30 email should have been deleted; it was archived or unpublished and so it remains available to USDA staff and can be restored.

I declare under penalty under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed in Washington, D.C., on this 31st day of March, 2025.

Brian K. Mabry
Deputy Director, Office of Communications
U.S. Department of Agriculture